

(3) JUDICIAL REVIEW.—Any action taken by the Secretary under paragraph (1) shall be subject to the judicial review described in section 603 of that Act (42 U.S.C. 2000d-2). Any person aggrieved by the action may obtain that judicial review in the manner, and to the extent, provided in section 603 of that Act.

(c) DEFINITIONS AND RULE.—

(1) DEFINITIONS.—In this section:

(A) ELEMENTARY SCHOOL; LOCAL EDUCATIONAL AGENCY; SECONDARY SCHOOL; STATE EDUCATIONAL AGENCY.—The terms “elementary school”, “local educational agency”, “secondary school”, and “State educational agency” have the meanings given the terms in section 3 of the Elementary and Secondary Education Act of 1965.

(B) SECRETARY.—The term “Secretary” means the Secretary of Education, acting through the Assistant Secretary for Civil Rights of the Department of Education.

(C) YOUTH GROUP.—The term “youth group” means any group or organization intended to serve young people under the age of 21.

(2) RULE.—For purposes of this section, an elementary school or secondary school has a designated open forum whenever the school involved grants an offering to or opportunity for 1 or more youth or community groups to meet on school premises or in school facilities before or after the hours during which attendance at the school is compulsory.

SEC. 3. EFFECTIVE DATE.

This title takes effect 1 day after the date of enactment of this Act.

**MEASURE READ THE FIRST
TIME—S. 872**

Mr. JEFFORDS. Mr. President, I understand that S. 872, introduced earlier today by Senators MCCAIN, EDWARDS, and KENNEDY, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 872) to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage.

Mr. JEFFORDS. I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard.

The bill will be read a second time on the next legislative day.

**PUBLIC SAFETY OFFICER MEDAL
OF VALOR ACT OF 2001**

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 37, S. 39.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 39) to provide a national medal for public safety officers who act with extraordinary valor above and beyond the call of duty, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Public Safety Officer Medal of Valor Act of 2001”.

SEC. 2. AUTHORIZATION OF MEDAL.

After September 1, 2001, the President may award, and present in the name of Congress, a Medal of Valor of appropriate design, with ribbons and appurtenances, to a public safety officer who is cited by the Attorney General, upon the recommendation of the Medal of Valor Review Board, for extraordinary valor above and beyond the call of duty. The Public Safety Medal of Valor shall be the highest national award for valor by a public safety officer.

SEC. 3. MEDAL OF VALOR BOARD.

(a) ESTABLISHMENT OF BOARD.—There is established a Medal of Valor Review Board (hereinafter in this Act referred to as the “Board”), which shall be composed of 11 members appointed in accordance with subsection (b) and shall conduct its business in accordance with this Act.

(b) MEMBERSHIP.—

(1) MEMBERS.—The members of the Board shall be individuals with knowledge or expertise, whether by experience or training, in the field of public safety, of which—

(A) two shall be appointed by the majority leader of the Senate;

(B) two shall be appointed by the minority leader of the Senate;

(C) two shall be appointed by the Speaker of the House of Representatives;

(D) two shall be appointed by the minority leader of the House of Representatives; and

(E) three shall be appointed by the President, including one with experience in firefighting, one with experience in law enforcement, and one with experience in emergency services.

(2) TERM.—The term of a Board member shall be 4 years.

(3) VACANCIES.—Any vacancy in the membership of the Board shall not affect the powers of the Board and shall be filled in the same manner as the original appointment.

(4) OPERATION OF THE BOARD.—

(A) CHAIRMAN.—The Chairman of the Board shall be elected by the members of the Board from among the members of the Board.

(B) MEETINGS.—The Board shall conduct its first meeting not later than 90 days after the appointment of the last member appointed of the initial group of members appointed to the Board. Thereafter, the Board shall meet at the call of the Chairman of the Board. The Board shall meet not less often than twice each year.

(C) VOTING AND RULES.—A majority of the members shall constitute a quorum to conduct business, but the Board may establish a lesser quorum for conducting hearings scheduled by the Board. The Board may establish by majority vote any other rules for the conduct of the Board's business, if such rules are not inconsistent with this Act or other applicable law.

(c) DUTIES.—The Board shall select candidates as recipients of the Medal of Valor from among those applications received by the National Medal of Valor Office. Not more often than once each year, the Board shall present to the Attorney General the name or names of those it recommends as Medal of Valor recipients. In a given year, the Board shall not be required to select any recipients but may not select more than 5 recipients. The Attorney General may in extraordinary cases increase the number of recipients in a given year. The Board shall set an annual timetable for fulfilling its duties under this Act.

(d) HEARINGS.—

(1) IN GENERAL.—The Board may hold such hearings, sit and act at such times and places, administer such oaths, take such testimony, and receive such evidence as the Board considers advisable to carry out its duties.

(2) WITNESS EXPENSES.—Witnesses requested to appear before the Board may be paid the same fees as are paid to witnesses under section 1821 of title 28, United States Code. The per diem and mileage allowances for witnesses shall be paid from funds appropriated to the Board.

(e) INFORMATION FROM FEDERAL AGENCIES.—The Board may secure directly from any Federal department or agency such information as the Board considers necessary to carry out its duties. Upon the request of the Board, the head of such department or agency may furnish such information to the Board.

(f) INFORMATION TO BE KEPT CONFIDENTIAL.—The Board shall not disclose any information which may compromise an ongoing law enforcement investigation or is otherwise required by law to be kept confidential.

SEC. 4. BOARD PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—(1) Except as provided in paragraph (2), each member of the Board shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Board.

(2) All members of the Board who serve as officers or employees of the United States, a State, or a local government, shall serve without compensation in addition to that received for those services.

(b) TRAVEL EXPENSES.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of service for the Board.

SEC. 5. DEFINITIONS.

In this Act:

(1) PUBLIC SAFETY OFFICER.—The term “public safety officer” means a person serving a public agency, with or without compensation, as a firefighter, law enforcement officer, or emergency services officer, as determined by the Attorney General. For the purposes of this paragraph, the term “law enforcement officer” includes a person who is a corrections or court officer or a civil defense officer.

(2) STATE.—The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Attorney General such sums as may be necessary to carry out this Act.

SEC. 7. NATIONAL MEDAL OF VALOR OFFICE.

There is established within the Department of Justice a National Medal of Valor Office. The Office shall provide staff support to the Board to establish criteria and procedures for the submission of recommendations of nominees for the Medal of Valor and for the final design of the Medal of Valor.

SEC. 8. CONFORMING REPEAL.

Section 15 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2214) is amended—

(1) by striking subsection (a) and inserting the following new subsection (a):

“(a) *ESTABLISHMENT.*—There is hereby established an honorary award for the recognition of outstanding and distinguished service by public safety officers to be known as the Director's Award For Distinguished Public Safety Service (‘Director's Award’).”;

(2) in subsection (b)—
 (A) by striking paragraph (1); and
 (B) by striking “(2)”;
 (3) by striking subsections (c) and (d) and redesignating subsections (e), (f), and (g) as subsections (c), (d), and (e), respectively; and
 (4) in subsection (c), as so redesignated—
 (A) by striking paragraph (1); and
 (B) by striking “(2)”.

SEC. 9. CONSULTATION REQUIREMENT.

The Board shall consult with the Institute of Heraldry within the Department of Defense regarding the design and artistry of the Medal of Valor. The Board may also consider suggestions received by the Department of Justice regarding the design of the medal, including those made by persons not employed by the Department.

Mr. LEAHY. Mr. President, I am pleased that the Senate is taking up the Public Safety Officer Medal of Valor Act, S. 39, which was introduced by Senator STEVENS, and its House counterpart, H.R. 802, which already passed the House of Representatives in March. I am proud to be a cosponsor of this important piece of legislation.

I congratulate Senator STEVENS for introducing the measure and thank him for his leadership. We had worked together on a number of law enforcement matters and the senior Senator from Alaska is a stalwart supporter of the men and women who put themselves at risk to protect us all. I looked forward to enactment of this measure and to seeing the extraordinary heroism of our police, firefighters and correctional officers recognized with the Medal of Valor.

On May 18, 1999, I was privileged to be on the floor of the Senate when we proceeded to consider S. 39 and passed it unanimously. I took that occasion to commend Senator STEVENS and all who had worked so hard to move this measure in a timely way. That was almost two years ago, during National Police Week of 1999. The measure was sent to the House where it lay dormant for the rest of the last Congress. That delay was most unfortunate.

Again, in this Congress, I have worked with Senator STEVENS, Senator HATCH, and others to perfect the final version of this bill and finally get it enacted into law. We have crafted bipartisan improvements to ensure that the Medal of Valor Board will work effectively and efficiently with the National Medal of Valor Office within the Department of Justice. Our legislation should establish both of these entities and it is essential that they work well together to design the Medal of Valor and to create the criteria and procedures for recommendations of nominees for the award. The men and women who will be honored by the Medal of Valor for their brave deeds deserve nothing less.

I look forward to the President signing the Public Safety Officer Medal of Valor Act into law.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 39), as amended, was read the third time and passed.

JAMES GUELFF AND CHRIS MCCURLEY BODY ARMOR ACT OF 2001

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 38, S. 166.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 166) to limit access to body armor by violent felons and to facilitate the donation of Federal surplus body armor to State and local law enforcement agencies.

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “James Guelff and Chris McCurley Body Armor Act of 2001”.

SEC. 2. FINDINGS.

Congress finds that—

(1) nationally, police officers and ordinary citizens are facing increased danger as criminals use more deadly weaponry, body armor, and other sophisticated assault gear;

(2) crime at the local level is exacerbated by the interstate movement of body armor and other assault gear;

(3) there is a traffic in body armor moving in or otherwise affecting interstate commerce, and existing Federal controls over such traffic do not adequately enable the States to control this traffic within their own borders through the exercise of their police power;

(4) recent incidents, such as the murder of San Francisco Police Officer James Guelff by an assailant wearing 2 layers of body armor, a 1997 bank shoot out in north Hollywood, California, between police and 2 heavily armed suspects outfitted in body armor, and the 1997 murder of Captain Chris McCurley of the Etowah County, Alabama Drug Task Force by a drug dealer shielded by protective body armor, demonstrate the serious threat to community safety posed by criminals who wear body armor during the commission of a violent crime;

(5) of the approximately 1,200 officers killed in the line of duty since 1980, more than 30 percent could have been saved by body armor, and the risk of dying from gunfire is 14 times higher for an officer without a bulletproof vest;

(6) the Department of Justice has estimated that 25 percent of State and local police are not issued body armor;

(7) the Federal Government is well-equipped to grant local police departments access to body armor that is no longer needed by Federal agencies; and

(8) Congress has the power, under the interstate commerce clause and other provisions of

the Constitution of the United States, to enact legislation to regulate interstate commerce that affects the integrity and safety of our communities.

SEC. 3. DEFINITIONS.

In this Act:

(1) *BODY ARMOR.*—The term “body armor” means any product sold or offered for sale, in interstate or foreign commerce, as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment.

(2) *LAW ENFORCEMENT AGENCY.*—The term “law enforcement agency” means an agency of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

(3) *LAW ENFORCEMENT OFFICER.*—The term “law enforcement officer” means any officer, agent, or employee of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

SEC. 4. AMENDMENT OF SENTENCING GUIDELINES WITH RESPECT TO BODY ARMOR.

(a) *IN GENERAL.*—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and the policy statements of the Commission, as appropriate, to provide an appropriate sentencing enhancement for any crime of violence (as defined in section 16 of title 18, United States Code) or drug trafficking crime (as defined in section 924(c) of title 18, United States Code) (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) in which the defendant used body armor.

(b) *SENSE OF CONGRESS.*—It is the sense of Congress that any sentencing enhancement under this section should be at least 2 levels.

SEC. 5. PROHIBITION OF PURCHASE, USE, OR POSSESSION OF BODY ARMOR BY VIOLENT FELONS.

(a) *DEFINITION OF BODY ARMOR.*—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

“(35) The term ‘body armor’ means any product sold or offered for sale, in interstate or foreign commerce, as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment.”.

(b) *PROHIBITION.*—

(1) *IN GENERAL.*—Chapter 44 of title 18, United States Code, is amended by adding at the end the following:

“§931. Prohibition on purchase, ownership, or possession of body armor by violent felons

“(a) *IN GENERAL.*—Except as provided in subsection (b), it shall be unlawful for a person to purchase, own, or possess body armor, if that person has been convicted of a felony that is—

“(1) a crime of violence (as defined in section 16); or

“(2) an offense under State law that would constitute a crime of violence under paragraph (1) if it occurred within the special maritime and territorial jurisdiction of the United States.

“(b) *AFFIRMATIVE DEFENSE.*—

“(1) *IN GENERAL.*—It shall be an affirmative defense under this section that—

“(A) the defendant obtained prior written certification from his or her employer that the defendant’s purchase, use, or possession of body